

CITY OF MILPITAS
Summary of Contents
Milpitas City Council Meeting
June 3, 2003
6:30 p.m. Closed Session
7:30 p.m. Public Business
455 E. Calaveras Boulevard

I. ROLL CALL (6:30 p.m.)

II. ADJOURN TO CLOSED SESSION

1. CONFERENCE WITH REAL PROPERTY NEGOTIATOR

(Pursuant to Government Code Section 54956.8)

Property: APN Nos. 086-05-009, 086-10-025, and 086-11-013

Negotiating Party: Thomas J. Wilson

Under Negotiation: Price and Terms of Payment

2. CONFERENCE WITH LABOR NEGOTIATOR

(Pursuant to Government Code Section 54957.6)

Agency Negotiator: Cherie Rosenquist

Employee Organization: LIUNA

III. CLOSED SESSION ANNOUNCEMENTS: Report on action taken in Closed Session, if required pursuant to Government Code Section 54957.1, including the vote on abstention of each member present

IV. PLEDGE OF ALLEGIANCE (7:30 p.m.)

V. APPROVAL OF MINUTES: May 13, 16, and 20, 2003

VI. SCHEDULE OF MEETINGS

VII. PRESENTATIONS

Presentation of APA Award for the MidTown Specific Plan

Commendations:

- Scott Zeise – High School graduation – Home Schooling
- Renaissance Students:

Clara Cartwright	Lyle Farrell	Carmen Rivera
Charles Lee	LaTosha Williams	Aysa Mohsin
Megan Wong	Yukari Takeuchi	Mercy Sanchez
Magnolia Conde Muyot		

Certificates of Appointment:

- Michael Pham, Economic Development Commission
- Donald Peoples, Economic Development Commissionong Nguyen, Economic Development Commission

Certificates of Appreciation:

- Donors for Mass Feeding exercise, April 24th, 2003, at Weller Elementary School
 - Burger King, 175 W. Calaveras Blvd.
 - Burger King, 1475 Dempsey Rd.
 - Carl's Jr., 120 W. Calaveras Blvd.
 - Chili's Grill, 300 W. Calaveras Blvd.
 - Dominos Pizza, 55 Dempsey Rd.
 - El Toritos, 477 E. Calaveras Blvd.
 - Florentine, 100 Great Mall Dr.
 - Fresh Choice, 248 Great Mall Dr.
 - Georgio's Italian, 643 E. Calaveras Blvd.
 - Hot Dog On A Stick, 610 Great Mall Dr.
 - Hungry Hunter, 1181 E. Calaveras Blvd.
 - In-N-Out Burger, 50 Ranch Dr.
 - LSI Logic, 1501 McCarthy Blvd.
 - Little Caesar's Pizza, 287 Jacklin Rd.
 - Lyon's, 765 E. Calaveras Blvd.
 - Kentucky Fried Chicken, 73 S. Main St.
 - McDonalds, 99 N. Milpitas Blvd.
 - McDonalds, 1854 N. Milpitas Blvd.
 - Nob Hill Foods, 401 Jacklin Rd.
 - Omega Restaurant, 90 S. Pk Victoria Dr.
 - Papa Murphys, 119 N. Milpitas Blvd.
 - Pizza Box, 1253 Jacklin Rd.
 - Pizza Depot, 42 Dixon Landing Rd.
 - Ravioli's, 57 N. Milpitas Blvd.
 - Round Table Pizza, 79 Abbott Ave.
 - Taco Bell, 1774 S. Main St.
 - Taco Bell, 1365 S. Park Victoria Dr.
 - Taco Bell, 99 Ranch Dr.
 - Town Center Pizza, 85 N. Milpitas Blvd.
 - Wal-Mart, 301 Ranch Rd.
 - Wienerschnitzel, 1333 S. Park Victoria Dr.

VIII. CITIZENS FORUM

Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to under two minutes. As an unagendized item, no response is required from City staff or the Council and no action can be taken; however, the Council may instruct the City Manager to agendize the item for a future meeting.

IX. ANNOUNCEMENTS

X. APPROVAL OF AGENDA

XI. CONSENT CALENDAR (Items with Asterisks)

XII. PUBLIC HEARINGS

1. **Approve Funding for Twelve Cultural Arts Support Program Grants for FY 2003-2004, as Recommended by the Arts Commission (Staff Contact: Renee Lorentzen, 586-2778)**
2. **Introduce Ordinance No. 172.40 Amending Title III, Chapter 6 (Massage Establishments and Practitioners) of the City of Milpitas Municipal Code (Staff Contacts: Tambri Heyden, 586-3280 and Charlie Lawson, 586-2401)**

XIII. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. CALL TO ORDER BY THE MAYOR

RA2. ROLL CALL

RA3. APPROVAL OF MINUTES: May 13 and 20, 2003

RA4. APPROVAL OF AGENDA AND CONSENT CALENDAR (ITEMS WITH ASTERISKS)

- RA5. Introduce Ordinance No. 192.14 of the City Council Amending Ordinance No. 192, as Previously Amended and Approving and Adopting the Amendment to the Redevelopment Plan for the Milpitas Redevelopment Project No. 1 and Adopt Related and Supporting Resolutions for the Eighth Amendment to the Redevelopment Plan Including, but not Limited to, Response to Written Objections, Certifications of the Final Environmental Impact Report, and Expenditure of Low and Moderate Income Housing Funds (Staff Contact: Blair King, 586-3060)**
- RA6. Approve Purchase of Approximately 35 Acres Identified as Assessor Parcel Numbers 086-05-009, 086-10-025, and 086-11-013 (Surplus Elmwood and Abel Street Properties) from the County of Santa Clara (Blair King, 586-3060; Steve Mattas, 586-3040)**
- RA7. Final Acceptance of the FY 2003-2004 Operating Budget and Capital Improvement Program (Staff Contact: Emma Karlen 586-3145)**
- *RA8. Adopt Resolution Granting Final Acceptance; Approve Purchase Orders; and Review Progress Report On 3rd and 4th Floor Improvements: (Project No. 8026) (Staff Contact: Greg Armendariz, 586-3220)**
- RA9. AGENCY ADJOURNMENT**

XIV. REPORTS OF OFFICERS AND BOARDS

City Council

- 3. Request for Donation: Digital Business Academy at Milpitas High School: Mayor Esteves**
- *4. Approve the Mayor's Reappointments to the Citizens Emergency Preparedness Advisory Committee, Library Advisory Commission, and Parks, Recreation, and Cultural Resources Commission: Mayor Esteves**

XV. UNFINISHED BUSINESS

- *5. Approve Dedication Plaque For The Milpitas Dog Park (Staff Contact: Elizabeth Racca-Johnson, 586-3306; Blair King, 586-3060)**

XVI. NEW BUSINESS

- *6. Approve Arts Donation Policy (Staff Contact: Bonnie Greiner, 586-3227)**
- *7. Approve Amended Grant Application Guidelines For Individual And Group Youth Sports Assistance Fund (Staff Contact: Kerrilyn Ely, 586-3231)**
- *8. Approve The Fee Increase to the Spay/Neuter Program for Animal Control Services (Staff Contact: Felix Reliford, 586-3071; and Gloria Anaya, 586-3075)**
- *9. Approve Request For One-Year Extension Of Sister City Relationship And Approval Of Updated Memorandum Of Understanding: Tsukuba City, Japan (Staff Contact: Leslie Stobbe, 586-3352)**

XVII. ORDINANCES

- 10. Consider Adopting Ordinance No. 260 Adding Chapter 600 to Title I of the Milpitas Municipal Code Related to Display of Flags (Staff Contact: Steve Mattas, 586-3040)**

- *11. **Adopt Ordinance No. 243.2 Amending Chapter 210 of Title I of the Milpitas Municipal Code Related to Disbursement of Excess Campaign Funds (Staff Contact: Steve Mattas, 586-3040)**
- *12. **Adopt Ordinances No. 120.41 and 208.38 of Title VIII Chapters 1 and 2 Setting Utility Rates and Water and Sewer Connection Fees (Staff Contact: Darryl Wong 586-3345)**

XVIII. RESOLUTIONS

- *13. **Adopt a Resolution Moving Two Unrepresented Classifications to the Professional and Technical Unit (PROTECH) (Staff Contact: Cherie Rosenquist 586-3090)**
- *14. **Adopt a Resolution to Release Unclaimed Checks Per SOP No. 26-1 (Staff Contact: Dante Ong, 586-3132)**
- *15. **Adopt Resolution of Intention to Levy Assess for Fiscal Year 2003-2004, Preliminarily Approving the Annual Engineer's Report and Providing for Notice of Public Hearing: Landscaping and Lighting Maintenance District No. 95-1, McCarthy Ranch, Program No. 9474, (Staff Contact: Mehdi Khaila, 586-3328)**
- *16. **Adopt Resolution of Intention to Levy Assessments for Fiscal Year 2003-2004, Preliminarily Approving the Annual Engineer's Report and Providing for Notice of Public Hearing: Landscaping and Lighting Maintenance District No. 98-1, Sinclair Horizon, Program No. 9489 (Staff Contact: Mehdi Khaila, 586-3328)**
- *17. **Adopt Resolution Granting Final Acceptance: Bellew Drive Widening (Project No. 4191) (Staff Contact: Steve Erickson, 586-3317)**

XIX. BIDS AND CONTRACTS

- *18. **Approve Two Agreements with Santa Clara County Regarding Solid Waste Programs (Staff Contact: Darryl Wong, 586-3345)**
- *19. **Approve Agreement Amendment: H. T. Harvey and Associates; Environmental Services for Calaveras Road Slope Rehabilitation (Project No. 4029) (Staff Contact: Steve Erickson, 586-3317)**
- *20. **Approve Authorization for Contract: Major League Soccer Camps, Summer Youth Soccer Camps (Staff Contact: Aaron Bueno, 586-3226)**
- *21. **Approve Authorization for Contract: Skyhawks Sports Programs, Summer Youth Sports Camps (Staff Contact: Aaron Bueno, 586-3226)**
- *22. **Approve Authorization For Contract: South Bay MOA, Adult Softball League Referees (Staff Contact: Aaron Bueno, 586-3226)**
- *23. **Approve Plans and Specifications: Pavement Improvement Program (Project No. 4182) (Staff Contact: Steve Erickson, 583-3317)**
- *24. **Approve Plans and Specifications and Purchase and Sale Agreement and Escrow Instructions: Piedmont Road Bike Path and Sidewalk Improvements at St. John's Cemetery, Project No. 4214, CCS Planning and Engineering (Staff Contact: Steve Erickson 583-3317)**

- *25. Approve Plans and Specifications: Traffic Signal Installation at Barber Lane and Bellew Drive: Higgins Associates. (Project No. 4212) (Staff Contact: Steve Erickson, 586- 3317)**
- *26. Authorize City Manager to Execute Contract: Wildlife Center of Silicon Valley Animal Control Services for the City of Milpitas (Staff Contact: Felix Reliford, 586-3071)**
- *27. Award Construction Contract: Cathodic Protection System Repairs (Project No. 7050) (Staff Contact: Steve Erickson, 586-3317)**

XX. CLAIMS AND DEMANDS

- *28. Approve Payment Requests: Miscellaneous Vendors / Contractors (Staff Contact: Lou Zenzen, 586-3161)**

XXI. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, JUNE 17, 2003, AT 7:30 P.M.**

NOTICE:

Beginning August 5, 2003, the public portion of the City Council meetings will begin at 7:00 p.m.

CITY OF MILPITAS
Summary of Contents
Milpitas City Council Meeting
June 3, 2003
6:30 p.m. Closed Session
7:30 p.m. Public Business
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XII. PUBLIC HEARINGS

1. APPROVE FUNDING FOR TWELVE CULTURAL ARTS SUPPORT PROGRAM GRANTS FOR FY 2003-2004, AS RECOMMENDED BY THE ARTS COMMISSION (STAFF CONTACT: RENEE LORENTZEN, 586-2778)

BACKGROUND: Funding for the FY 2003-2004 Cultural Arts Support Program is proposed in the Recreation Services' FY 2003 - 2004 operating budget in the amount of \$22,000. Funding will be available upon City Council's approval making grant funds available July 1, 2003, for the grant recipients.

The Cultural Arts Support Program (CASP) is a competitive grant program designed to increase and deepen participation to arts and cultural activities for the Milpitas community. CASP also encourages coalitions and collaborations between artists, art organizations and other sectors to infuse the entire community with art activities.

Fourteen applicants submitted Cultural Arts Support Program (CASP) grant applications by the February 21, 2003, deadline. Following a review by staff, twelve applications were eligible. The Arts Commission reviewed the applications at their April 28, 2003, meeting and unanimously moved to recommend the 10 top scoring applicants to receive funding in the amount of \$2,000 each and the remaining two applicants to receive funding in the amount of \$1,000 each, for a total of \$22,000. Each applicant's proposal was judged on the following criteria:

- Impact on the Milpitas Community
- Support and awareness of Cultural Arts in Milpitas
- The ability to deliver the proposed project

Commissioners and Staff rated each applicant on a cumulative grading scale with 90 points being the highest possible score. Enclosed in the Council's packet is a spreadsheet, detailing the Arts Commission's scoring and final funding recommendations.

RECOMMENDATION:

1. Close the Public Hearing.
2. Approve the Arts Commission's recommendations for funding for the Cultural Arts Support Program grants for FY 2003-2004.

2. INTRODUCE ORDINANCE NO. 172.40 AMENDING TITLE III, CHAPTER 6 (MESSAGE ESTABLISHMENTS AND PRACTITIONERS) OF THE CITY OF MILPITAS MUNICIPAL CODE (STAFF CONTACTS: TAMBRI HEYDEN, 586-3280 AND CHARLIE LAWSON, 586-2401)

BACKGROUND: The City's massage establishments and practitioners code was adopted in 1972. Between 1972 and 1995 it was amended twice. In addition to meeting zoning and business license requirements, the code requires certain individuals who perform massage to obtain a massage permit issued by the Police Department. After the Police Department experienced a significant increase in massage permit applications between 1989 (8) and 1993 (29), it was determined that stricter codes in surrounding communities were causing massage establishments

to migrate to cities such as Milpitas. The City Council adopted a six-month moratorium on the issuance of new massage permits until the code was significantly amended on April 18, 1995.

Although it is recognized that massage is a valid professional service offering the public health and therapeutic benefits, it can also be linked to serious crime problems. The city's regulations are intended to ensure that persons offering massage services conduct their work lawfully and professionally with the necessary qualifications and training and in compliance with minimum sanitation and health standards. Over time, individuals involved with crimes linked to massage services have become increasingly creative as to how to circumvent and manipulate the regulations. Also, changes in state law have made available additional tools that the Police Department can use to help prevent and minimize the number of these crimes (see background report prepared by Police Chief Lawson included in the Council's materials). For these reasons, further prompted by specific recent cases, the Police Department, Finance Department, City Attorney's office and Planning Division have come together to address observed trends from a business license, zoning, legal and police enforcement approach. Application, procedure and administrative improvements, related to regulating massage uses, are currently being designed for implementation. In addition, Ordinance No. 172.40, included in the Council's materials, has been drafted to amend the city's massage establishments and practitioner's code, as another means to address the issues identified.

The amendments to the massage establishments and practitioner's code are summarized as follows:

- a) removal of the massage permit exemption for individuals who perform massage as independent contractors, rather than direct employees, of physicians, surgeons, chiropractors, osteopaths, nurses, physical therapists and acupuncturists;
- b) expanded employment history information from 5 years to 10 years and certain criminal-related history to be submitted for a massage permit application;
- c) additional circumstances upon which the Police Chief is authorized to delay and/or deny an application;
- d) new training/educational requirements for individuals applying to renew a permit; and
- e) additional circumstances upon which the Police Chief is authorized to suspend or revoke a permit.

RECOMMENDATION:

- 1. Close the Public Hearing.
- 2. Waive reading beyond the title and introduce Ordinance No. 172.40.

XIII. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. CALL TO ORDER BY THE MAYOR

RA2. ROLL CALL

RA3. APPROVAL OF MINUTES: May 13 and 20, 2003

RA4. APPROVAL OF AGENDA AND CONSENT CALENDAR (ITEMS WITH ASTERISKS)

RA5. INTRODUCE ORDINANCE NO. 192.14 OF THE CITY COUNCIL AMENDING ORDINANCE NO. 192, AS PREVIOUSLY AMENDED AND APPROVING AND ADOPTING THE AMENDMENT TO THE REDEVELOPMENT PLAN FOR THE MILPITAS REDEVELOPMENT PROJECT NO. 1 AND ADOPT RELATED AND SUPPORTING RESOLUTIONS FOR THE EIGHTH AMENDMENT TO THE REDEVELOPMENT PLAN INCLUDING, BUT NOT LIMITED TO, RESPONSE TO WRITTEN OBJECTIONS, CERTIFICATIONS OF THE FINAL ENVIRONMENTAL IMPACT REPORT, AND EXPENDITURE OF LOW AND MODERATE INCOME HOUSING FUNDS (STAFF CONTACT: BLAIR KING, 586-3060)

BACKGROUND: On May 20, 2003, the Redevelopment Agency and City Council held a fully noticed joint Public Hearing for the proposed Eighth Amendment to the Redevelopment Plan for Redevelopment Project Area No. 1. A staff report consisting of a power point presentation and comments from various consultants was made. Written comments were received and all that wished to speak were heard. After all evidence and testimony was received, the public hearing was concluded and the joint meeting was continued until June 3, 2003.

Presented to the Agency/Council are a package of approvals that are required to introduce the ordinance that will amend the Redevelopment Plan.

Written comments that could be interpreted as written objections to the adoption of the Eighth Amendment were received from Pacific Gas and Electric Company and Bruce J. Pallack, Owner/Operator, Garbe's Towing. State law requires that, prior to acting upon the proposed amendment, the City Council respond in writing and make written findings in response to each written objection of an affected property owner or taxing entity. Accordingly, responses have been prepared to each written objection and are included as findings attached to the first resolution of the package of approvals presented.

As required by law, a Program Environmental Impact Report was prepared for the Eighth Amendment. The Agency as the "lead agency", and as the body originating the proposed Amendment, must certify the Final Program Environmental Impact Report (EIR), and the City Council as the legislative body, with final discretion over the approval of the proposed Amendment, must certify the Final EIR as a "responsible agency."

Resolutions have also been prepared that allows the Agency/Council the discretion, if desired, to spend Low and Moderate Income Housing Funds outside the boundaries of the Project Area.

Ordinance No 192.14 contains all the findings required by law and is ready for introduction if the Council so desires.

A separate motion and vote on each action is preferable.

RECOMMENDATION:

1. Adopt a Resolution of the City Council Adopting Findings in Response to Written Objections on Adoption of the Eighth Amendment to the Redevelopment Plan for the Milpitas Project No. 1.
2. Adopt a Resolution of the Redevelopment Agency Certifying and Making Findings Regarding the Environmental Impact Report on the Eighth Amendment to the Redevelopment Plan for the Milpitas Project No. 1.
3. Adopt a Resolution of the Redevelopment Agency Finding and Determining that the use of Monies from the Low and Moderate Income Housing Fund Outside the Boundaries of the area to be added to the Milpitas Redevelopment Project Area No. 1 will Benefit the Added Area and Authorizing the Expenditure of such funds.
4. Adopt a Resolution of the Redevelopment Agency Approving the Eighth Amendment to the Redevelopment Plan for the Milpitas Redevelopment Project Area No. 1.

5. Adopt a Resolution of the City Council Approving and Making Findings Regarding the Environmental Impact Report on the Eighth Amendment to the Milpitas Redevelopment Plan for Redevelopment Project Area No. 1.
6. Adopt a Resolution of the City Council Finding and Determining that the use of Monies from the Low and Moderate Income Housing Fund Outside of the Area to be Added to the Milpitas Redevelopment Project Area No. 1 will benefit the Added Area and Authorizing the Expenditure of such funds.
7. Waive Reading beyond the Title of an Ordinance of the City Council Amending Ordinance No. 192, as Previously Amended and Approving and Adopting the Amendment to the Redevelopment Plan for the Milpitas Redevelopment Project No. 1.
8. Introduce Ordinance No. 192.14, Amending the Redevelopment Plan for the Milpitas Redevelopment Project No. 1.

RA6. APPROVE PURCHASE OF APPROXIMATELY 35 ACRES IDENTIFIED AS ASSESSOR PARCEL NUMBERS 086-05-009, 086-10-025, AND 086-11-013 (SURPLUS ELMWOOD AND ABEL STREET PROPERTIES) FROM THE COUNTY OF SANTA CLARA (BLAIR KING, 586-3060; STEVE MATTAS, 586-3040)

BACKGROUND: Pursuant to Agency Board direction provided January 7, 2003, Agency staff entered into negotiations with Santa Clara County to acquire approximately 35 acres of surplus Elmwood and Able Street properties. Negotiations have successful been concluded. It is recommended that the Agency/Council approve the various resolutions and authorize the execution of the purchase agreements.

The subject property consists of approximately 9.7 acres located on the east side of Abel Street bisected by the Heritage Elm Trees, the Cracolice Building, and property immediately to the north of the Elmwood Jail west of Abel Street. (See attached map.) The acquisition of these unimproved and/or under-improved properties will achieve the community's historic goals to prevent the expansion of the Elmwood Correctional Facility and to facilitate the development of the vacant land surrounding Elmwood.

In accordance with the Government Code, Section 65402, on May 28, 2003, the Planning Commission determined that the acquisition of the subject properties was in conformance with the General Plan.

RECOMMENDATION:

1. Adopt a resolution approving a Purchase and Sale Agreement between the County of Santa Clara and the Redevelopment Agency for Acquisition of property and approving an Exclusive Negotiating Rights Agreement among the County, City, and Redevelopment Agency.
2. Adopt a resolution of the City Council approving an Exclusive Negotiating Rights Agreement between the County of Santa Clara, the City of Milpitas, and the Redevelopment Agency.
3. Adopt a resolution of the City Council approving a Sales Tax Sharing Agreement between the County of Santa Clara and the City of Milpitas.

RA7. FINAL ACCEPTANCE OF THE FY 2003-2004 OPERATING BUDGET AND CAPITAL IMPROVEMENT PROGRAM (STAFF CONTACT: EMMA KARLEN 586-3145)

BACKGROUND: During the May 13, 2003, Budget Public Hearing, the City Council conceptually approved the City/Agency Proposed FY 2003-04 Annual Budget, the FY 2003-04 Capital Improvement Program (CIP) Budget and the Five-year Capital Improvement Program (2003-2008). Based on actions conceptually approved by the Council, the attached Resolutions are submitted for the Council's approval of the Final 2003-04 Annual Budget totaling \$99,232,847.

The Final Operating Budget, CIP Budget and Five-year Capital Improvement Program will incorporate changes identified in the modification memo included in this packet. The published Final Budget Documents will be distributed to the City Council prior to the September 2, 2003, Council Meeting.

RECOMMENDATION:.

Adopt and approve the following:

1. A Resolution adopting the FY 2003-04 Appropriations Limit of \$48,662,062 for the City of Milpitas.
2. A Joint Resolution of the City and Redevelopment Agency approving the City's Final FY 2003-04 Budget of \$99,232,847.
3. A Joint Resolution of the Milpitas Redevelopment Agency and the City of Milpitas making findings following a Public Hearing for use of Redevelopment funds.
4. An Agreement between the City and the Redevelopment Agency for the Construction of Public Improvements.
5. The FY 2003-04 Capital Improvement Budget of \$9,689,575.
6. The Five-year Capital Improvement Program for the Fiscal Years 2003-04 through 2007-08 of \$26,947,552.
7. A Resolution Adjusting Salary Ranges for the Unrepresented Management Employees.

***RA8. ADOPT RESOLUTION GRANTING FINAL ACCEPTANCE; APPROVE PURCHASE ORDERS; AND REVIEW PROGRESS REPORT ON 3RD AND 4TH FLOOR IMPROVEMENTS: (PROJECT NO. 8026) (STAFF CONTACT: GREG ARMENDARIZ, 586-3220)**

BACKGROUND: On May 21, 2002, the Council initially accepted the project contracts with the two contractors:

- Mauck Sheetmetal
- Insul-Crete

A final inspection has been made on the work performed by these two contractors, prior to expiration of the one-year warranty. The improvements by each contractor are satisfactory. Therefore, a final acceptance may be granted and the Contractor's bond may be released for each contract.

An additional four purchase orders are recommended for approval. The cost for these purchase orders totals \$6,759. A purchase order summary, describing the work and cost for each purchase order, is included in the Council's agenda packet. Sufficient funds are available in the project contingency budget.

A report on the progress of the 3rd and 4th floor improvements is included in the Council's agenda packet.

RECOMMENDATION:

1. Adopt resolutions granting final acceptance and release of the bond for contracts with Mauck Sheetmetal & Insul-Crete;
2. Approve four purchase orders included in the purchase order summary sheet.
3. Note receipt and file project close out progress report.

RA9. AGENCY ADJOURNMENT

XIV. REPORTS OF OFFICERS AND BOARDS

City Council

3. REQUEST FOR DONATION: DIGITAL BUSINESS ACADEMY AT MILPITAS HIGH SCHOOL: MAYOR ESTEVES

BACKGROUND: Request for financial assistance has been received from the Digital Business Academy at Milpitas High School to help defray the cost of new equipment for the digital art/graphics computer lab. A detailed description of the request is included in the Council's agenda packet. Mayor Esteves is recommending a \$5,000 donation

The Council's Community Promotions Budget for FY02/03 has a balance of \$8,400.

RECOMMENDATION: Consider request.

***4. APPROVE THE MAYOR'S REAPPOINTMENTS TO THE CITIZENS EMERGENCY PREPAREDNESS ADVISORY COMMITTEE, LIBRARY ADVISORY COMMISSION, AND PARKS, RECREATION, AND CULTURAL RESOURCES COMMISSION: MAYOR ESTEVES**

BACKGROUND: The terms of various members of the Citizens emergency Preparedness Advisory Committee, the Library Advisory Commission, and the Parks, Recreation, and Cultural Resources Commission expire In June 2003. Mayor Esteves is recommending the following reappointments:

Citizens Emergency Preparedness Advisory Committee: Reappoint Robert Finnie, Donna Wynne, and David Harman to three-year terms expiring June 2006; and reappoint John Pilger (Alternate No. 2) to a two-year term expiring June 2005.

Library Advisory Commission: Reappoint Sonny Wang, Sen Fan, Carmen Montano, and Yu-Lan Chou to two-year terms expiring June 2005.

Parks, Recreation, and Cultural Resources Commission: Reappoint Steve Munzel, Zeya Mohsin, and Frances Krommenhock to three-year terms expiring June 2006, and reappoint Henry Ku (Alternate No. 1) to a two-year term expiring June 2005. (Note: All alternate appointments are for two years.)

Included In the Council's agenda packet are copies of current applications for these commissions.

RECOMMENDATION: Approve the Mayor's reappointments.

XVI. UNFINISHED BUSINESS

***5. APPROVE DEDICATION PLAQUE FOR THE MILPITAS DOG PARK (STAFF CONTACT: ELIZABETH RACCA-JOHNSON, 586-3306; BLAIR KING, 586-3060)**

BACKGROUND: The Milpitas Dog Park is scheduled to open in September 2003 with a Grand Opening Ceremony and the unveiling of a dedication plaque. Included in the Council's agenda packet for review is a proof for the proposed bronze dedication plaque. The Parks, Recreation, and Cultural Resources Commission (PRCRC) reviewed the dedication plaque and recommended its approval.

RECOMMENDATION: Approve the Dog Park dedication plaque.

XVI. NEW BUSINESS

***6. APPROVE ARTS DONATION POLICY (STAFF CONTACT: BONNIE GREINER 586-3227)**

BACKGROUND: At the May 19, 2003, Arts Commission meeting, the Commission adopted for recommendation to the City Council an Arts Donation Policy. Currently, the City has no formal Art Donation policy or procedures in place for works of art donated to the City. Staff has researched surrounding areas for policy examples and has drafted the attached policy, which has been approved to form by the City Attorney for the acceptance of donated Artworks.

RECOMMENDATION: Approve City of Milpitas Policy and Procedures for the Acceptance of Donated Artworks, and Arts Donation Applications as drafted by the City Attorney.

***7. APPROVE AMENDED GRANT APPLICATION GUIDELINES FOR INDIVIDUAL AND GROUP YOUTH SPORTS ASSISTANCE FUND (STAFF CONTACT: KERRILYN ELY, 586-3231)**

BACKGROUND: At the March 3, 2003 Parks, Recreation and Cultural Resources Commission (PRCRC) Meeting, the Commission adopted the short-term goal in their work plan to amend the Youth Sports Grant Guidelines (Individual and Group) to incorporate notification of achievements in the local newspaper through press releases and other media outlets.

At the May 5th PRCRC meeting the commission reviewed changes and recommended the attached amended grant application guidelines be forwarded for City Council review and approval.

RECOMMENDATION:. Approve PRCRC recommendation for amended grant application guidelines for Individual and Group Youth Sport Assistance Fund.

***8. APPROVE THE FEE INCREASE TO THE SPAY/NEUTER PROGRAM FOR ANIMAL CONTROL SERVICES (STAFF CONTACT: FELIX RELIFORD, 586-3071; GLORIA ANAYA, 586-3075)**

BACKGROUND: In 1997, the City Council established the Spay/Neuter Program, which provided a subsidy to Milpitas residents in obtaining spay/neuter services for their animals. The initial Spay/Neuter Program budget was \$5,000/per year and the cost to Milpitas residents was \$5.00/per client. Since the initiation of the program, the cost of the program has increased to \$40,000/per year; however, the cost to residents has remained the same over the past seven years.

Milpitas residents that participate in the Spay/Neuter Program can obtain the subsidy through the use of a voucher by calling the 24-hour Animal Hotline Number or coming into City Hall. Vouchers are mailed to residents within three days. Residents are required to submit the voucher to one of two local veterinarians in Milpitas (Bay Cities Spay & Neuter Clinic or Animal Medical Clinic) and pay the \$5.00 fee. Prior to accepting the voucher, the veterinarian requires the individual to show proof of residency in Milpitas with a driver's license, copy of utility bill or bank statement. Any additional medical care, testing, and vaccinations are at the expense of the owners.

City of Milpitas Spay/Neuter Program-Level of Service

The following number of vouchers has been issued for the City of Milpitas Spay/Neuter Program over the past three calendar years (including the current year):

<u>Year</u>	<u>Animals</u>	<u>Number of Vouchers Issued</u>
2000	Cats	596
	Dogs	<u>220</u>
	Total:	816
2001	Cats	563
	Dogs	<u>219</u>
	Total:	782
2002	Cats	610
	Dogs	<u>166</u>
	Total:	776
2003 to Date	Cats	310
	Dogs	<u>73</u>
	Total:	383

Recovery Cost for the Spay/Neuter Program

At its meeting on March 4, 2003, staff submitted for the Council's consideration suggested additional savings through several program reductions. One of the proposals for the Council's consideration was the elimination of the Spay/Neuter Program with potential savings of \$40,000. The Council decided not to require any reductions in the Spay/Neuter Program during this current fiscal year and directed staff to look at the level of service within the community and at a greater cost recovery for the spay/neuter program.

Since the City Council meeting, staff has spoken with both local veterinarians about the cost of spay/neuter services without any subsidy; those costs are below:

<u>Animal Medical Clinic:</u>		<u>Bay Cities Spay/Neuter Clinic</u>	
Cat (Female)	\$75.00 (S)	Cat (Female)	\$60.00 (S)
Cat (Male)	\$45.00 (N)	Cat (Male)	\$30.00 (N)
Dog (Female)	\$95.00-\$145.00 (S)	Dog (Female)	\$80.00-\$150.00(S)
Dog (Male)	\$75.00-\$125.00 (N)	Dog (Male)	\$60.00-\$100.00 (N)
(S) Spay	(N) Neuter		

On the average, the City subsidizes residents for spay/neuter services from \$25.00 to \$145.00/per voucher. These costs are based on your typical surgery performed by the veterinarians and do not include additional costs based on further complications during the surgery.

Staff has also contacted several cities, counties and the Humane Society of Silicon Valley in regard to the fee for their Spay/Neuter Programs in comparison to the City of Milpitas \$5.00 fee:

<u>Cities/Counties</u>	<u>Cats</u>	<u>Dogs</u>
Fremont	\$25.00-\$30.00	\$40.00-\$45.00
Mountain View (*)	\$30-\$40.00	\$50-\$60.00
Palo Alto	\$26.00	\$26.00
Pleasanton (**)	\$25.00-\$30.00	\$35.00-\$45.00
San Francisco	\$65-\$75.00	\$90-\$100.00
Santa Clara (***)	\$35-\$65.00	\$65-\$155.00
Humane Society of Silicon Valley	\$35-\$65.00	\$65-\$155.00
County of Santa Clara	\$30.00	\$30.00
County of Contra Costa	\$40.00	\$40.00

- (*) Services are provided by City of Palo Alto
(**) Services are provided by County of Alameda
(***) Services are provided by Humane Society of Silicon Valley

The range in the fees varies depending on the condition of the animal and the weight of dogs. The \$5.00 fee to residents for the Milpitas Spay/Neuter Program is by far one of the lowest fees in comparison to other surrounding municipalities and agencies that provide spay/neuter services in their community.

Staff is recommending a reduction in the Spay/Neuter Program budget for FY 2003-04 from \$40,000 to \$20,000, along with an increase in the fee for Milpitas residents from \$5.00 to \$30.00/per voucher. If approved by the Council, staff also recommends that the fee increase becomes effective as of July 1, 2003. The proposed fee increase would allow the City the opportunity to stretch its dollars further for this program and allow more residents the opportunity to participate.

The proposed increase in the voucher fee is the first increase in the cost since the initiation of the program seven years ago and is consistent with other cities fees for spay/neuter services. The direct impacts of the changes are unknown at this time. Staff would recommend that the Council direct staff to report back to the Council after six months to determine any potential impacts from the proposed fee increase.

Included in the Council's agenda packet are copies of the vouchers that are sent to local residents requesting to participate in the City's Spay/Neuter Program. If approved, the voucher would be changed to reflect the new fee of \$30.00.

RECOMMENDATION:

1. Reduce the Spay/Neuter Program budget for FY 2003-04 from \$40,000 to \$20,000.
2. Increase the Recovery Cost of the Spay/Neuter Program from \$5.00 to \$30.00/per voucher for Milpitas residents.
3. Approve the effective date of the fee increase as of July 1, 2003.
4. Direct staff to report back to the City Council in six months (January 2004 meeting) to determine any impact based on the proposed fee increase.

***9. APPROVE REQUEST FOR ONE-YEAR EXTENSION OF SISTER CITY RELATIONSHIP AND APPROVAL OF UPDATED MEMORANDUM OF UNDERSTANDING: TSUKUBA CITY, JAPAN (STAFF CONTACT: LESLIE STOBBE, 586-3352)**

BACKGROUND: The City of Milpitas has a Sister City Relationship with the Town of Kukizaki, Japan. The City of Tsukuba has since incorporated Kukizaki. The Milpitas Sister Cities Commission (SCC), under the leadership of Chair Debra Garcia, has unanimously recommended continuing this sister city relationship with a one-year extension of the existing Memorandum of Understanding (MOU) with Tsukuba. This city has agreed to the extension, which would allow postponement of the 2003 cultural exchanges to 2004. Included in the Council's agenda packet is a final draft of the updated MOU recommended by the SCC and copies of correspondence between the SCC and Tsukuba.

RECOMMENDATION: Approve the Sister Cities Commission's recommendation for a one-year extension of the sister city relationship with the City of Tsukuba, Japan. Authorize the Mayor to sign updated MOU with Tsukuba, Japan.

XVII. ORDINANCES

10. CONSIDER ADOPTING ORDINANCE NO. 260 ADDING CHAPTER 600 TO TITLE I OF THE MILPITAS MUNICIPAL CODE RELATED TO DISPLAY OF FLAGS (STAFF CONTACT: STEVE MATTAS, 586-3040)

BACKGROUND: At the City Council meeting of May 20, 2003 the City Council, on a 3-2 vote, introduced the attached ordinance. If adopted, the attached Ordinance would codify the City's policy regarding flag ceremonies at Higuera Adobe and regarding flag ceremonies at the Civic Center Complex.

Specifically, the Ordinance:

- Codifies the City of Milpitas flag policy for flag ceremonies at the Higuera Adobe including the application, public hearing and City Council approval requirements.
- Requires that the ten (10) permanent flag poles located at City Hall be used for only those purposes specified (i.e., display of the flags of the United States of America, State of California and City of Milpitas on the flagpoles in front of City Hall, display of the flags of the United States of America, the official MIA-POW flag of the United States, the State of California and the City of Milpitas flags at the Veteran's Memorial site, and display of four flags of the United States of America on the four permanent flag poles adjacent to the pond at City Hall).
- Upon the request of an individual or organization, the Ordinance allows flags of nations in existence after 1954 to be displayed in specified locations at the Civic Center complex and Community Center. Such a display must be approved by the City Council at public hearing held prior to the display event.

RECOMMENDATION: Consider the ordinance and, if desired by the City Council, waive reading of the title and adopt Ordinance No. 260 adding Chapter 600 to Title I of the Milpitas Municipal Code.

***11. ADOPT ORDINANCE NO. 243.2 AMENDING CHAPTER 210 OF TITLE I OF THE MILPITAS MUNICIPAL CODE RELATED TO DISBURSEMENT OF EXCESS CAMPAIGN FUNDS (STAFF CONTACT: STEVE MATTAS, 586-3040)**

BACKGROUND: At the request of Mayor Esteves, the City Attorney's Office reviewed the City's campaign contribution ordinance in the context of existing state and federal caselaw, statutes, and regulations. Presently, the City's campaign contribution ordinance contains limitations on the amount any one person may contribute to a candidate for elective City office, limits the transfer of campaign funds, and requires the distribution of all excess campaign contributions if not expended for campaign purposes within ninety days after the election. An analysis of these provisions in light of the applicable law was provided to the City Council by way of separate memorandum dated March 7, 2003.

At the Regular Meeting of April 1, 2003, the City Council provided direction to the City Attorney's Office to modify the City's campaign contribution regulations to bring the regulations into compliance with State law. Attached Ordinance No. 243.2 contains these requested modifications.

Specifically, the attached Ordinance amends Section I-210-3.10 (d) to prohibit candidates from transferring funds into a candidate or elective officer's campaign committee from any other committee controlled by a candidate where the transfer of funds would result in a transfer from one candidate to another. As discussed in detail in our March 7, 2003 memorandum, the

California Attorney General has recently opined that a ban on transfers from one campaign to a different campaign conducted by the same candidate was unconstitutional, but that a ban on transfers between candidates could be constitutional where there was also a limit on campaign contributions in place. *See* 85 Ops. Cal. Atty. Gen. 43 (2002). The proposed Ordinance modifies the Milpitas Municipal Code consistent with the direction of the Attorney General and in light of the applicable caselaw.

In addition, the attached Ordinance deletes section I-210-4.20, "Excess Funds," from the Milpitas Municipal Code. This deletion is warranted as section 89519 of the California Government Code provides that surplus funds are those funds under the control of a former candidate or elected officer upon leaving any elected office, or at the end of the post election reporting period following a defeat. In contrast, section I-210-4.20 does not use this definition of surplus funds, but instead requires that all contributions not expended for campaign purposes within ninety (90) days following the election shall be distributed in accordance with the ordinance. As a result of this contradiction, section 89519 likely preempts section I-210-4-20.

Government Code section 89519 further provides that surplus campaign funds shall be used only for the payment of outstanding campaign debts or expenses, repayment of contributions, donations to charitable organizations, contributions to a political party committee, contributions to support or oppose candidates for federal office or elective office in a state other than California, contributions to support or oppose a ballot measure, and payment for professional services. Section 89519 allows a candidate to choose from a wide range of distribution options contradicting section I-210-4.20 which allows a candidate only three choices for distribution. The deletion of section I-210-4.20 is further warranted by this conflict between the Code and state law. Upon deletion of section I-210-4.20, city candidates would remain subject to section 89519's provisions regarding distribution of surplus funds.

The City Council introduced Ordinance No. 243.2 by a 5-0 vote at the Regular Meeting of May 20, 2003.

RECOMMENDATION:

1. Waive full reading.
2. Adopt Ordinance No. 243.2 amending Chapter 210 of Title I of the Milpitas Municipal Code.

***12. ADOPT ORDINANCES NO. 120.41 AND 208.38 OF TITLE VIII CHAPTERS 1 AND 2 SETTING UTILITY RATES AND WATER AND SEWER CONNECTION FEES (STAFF CONTACT DARRYL WONG 586-3345)**

BACKGROUND: On May 6, 2003, Ordinances Nos. 120.41 and 208.38 were introduced to the Council. The first ordinance amends sections 6.13, 6.14, 6.15, 6.16, and 7.01 of Chapter 1, Title VIII, of the Milpitas Municipal Code setting water rates and water connection fees. The second ordinance amends sections 6.01 and 7.05 of Chapter 2, Title VIII, of the Milpitas Municipal Code setting sewer rates and sewer connection fees.

RECOMMENDATION:

1. Waive full reading of the ordinances.
2. Adopt Ordinance 120.41 amending Sections 6.13, 6.14, 6.15, 6.16 and 7.01 of Chapter 1, Title VIII of the Milpitas Municipal Code setting water rates and water connection fees.
3. Adopt Ordinance 208.38 Amending Sections 6.01 and 7.05 of Chapter 2, Title VIII of the Milpitas Municipal Code setting sewer rates and sewer connection fees.

XVIII. RESOLUTIONS

- *13. ADOPT A RESOLUTION MOVING TWO UNREPRESENTED CLASSIFICATIONS TO THE PROFESSIONAL AND TECHNICAL UNIT (PROTECH) (STAFF CONTACT: CHERIE ROSENQUIST 586-3090)**

BACKGROUND: It is the City's intent to add the classifications of Desktop Technician and Word Processing Operator to the Professional and Technical Unit (PROTECH) effective July 1, 2003. These employees currently are unrepresented and have been, in the past, considered "confidential" for purposes of labor relations with the City. These employees no longer serve as "confidential" employees and share a community of interest with the classifications in PROTECH.

LIUNA, Local 270, which is PROTECH'S exclusive bargaining representative, has agreed to add the Desktop Technician and Word Processing Operator classifications to PROTECH.

RECOMMENDATION: Adopt resolution to move two unrepresented classifications—Desktop Technician and Word Processing Operator to PROTECH effective July 1, 2003.

- *14. ADOPT A RESOLUTION TO RELEASE UNCLAIMED CHECKS PER SOP No. 26-1 (STAFF CONTACT: DANTE D. ONG, 586-3132)**

BACKGROUND: According to Standard Operating Procedures 26-1, unclaimed checks of less than \$15, or any amount if the depositor's name is unknown, which remain unclaimed for more than one year may be transferred to the general fund by the City Council. A list of unclaimed checks of less than \$15 which remain unclaimed for more than one year is included in the Council's agenda packet.

RECOMMENDATION: Adopt a resolution transferring \$188.18 to the General Fund in accordance with Standard Operating Procedures 26-1.

- *15. ADOPT RESOLUTION OF INTENTION TO LEVY ASSESS FOR FISCAL YEAR 2003-2004, PRELIMINARILY APPROVING THE ANNUAL ENGINEER'S REPORT AND PROVIDING FOR NOTICE OF PUBLIC HEARING: LANDSCAPING AND LIGHTING MAINTENANCE DISTRICT NO. 95-1, MCCARTHY RANCH, PROGRAM NO. 9474, (STAFF CONTACT: MEHDI KHAILA 586-3328)**

BACKGROUND: Landscaping and Lighting Maintenance Assessment District (LMD) No. 95-1, provides for servicing and maintaining the public landscaping and additional lighting along North McCarthy Boulevard and Ranch Drive Gateway Improvements. On May 20, 2003, the City Council directed the City Engineer to prepare an annual engineer's report for LMD 95-1. It is now necessary for the Council to preliminarily approve the Annual Report and set the date of June 17, 2003 for a public hearing. Upon conclusion of the public hearing on June 17, 2003, and subsequent City Council approval of the Annual Engineer's Report, the assessment for the work will be added to the tax bills for those property owners included within the boundaries of the District.

RECOMMENDATION:. Adopt Resolution Preliminarily approving the Annual Engineer's Report and providing for the notice of public hearing

- *16. ADOPT RESOLUTION OF INTENTION TO LEVY ASSESSMENTS FOR FISCAL YEAR 2003-2004, PRELIMINARILY APPROVING THE ANNUAL ENGINEER'S REPORT AND PROVIDING FOR NOTICE OF PUBLIC HEARING: LANDSCAPING AND LIGHTING MAINTENANCE DISTRICT NO. 98-1, SINCLAIR HORIZON, PROGRAM NO. 9489 (STAFF CONTACT: MEHDI KHAILA, 586-3328)**

BACKGROUND: Landscaping and Lighting Maintenance Assessment District (LMD) No. 98-1 provides for servicing and maintaining the public landscaping along Sinclair Frontage Road, Los Coches and Berryessa Creeks abutting the Sinclair Horizon residential subdivision. On May 20, 2003, the City Council directed the City Engineer to prepare an annual engineer's report for LMD 98-1. It is now necessary for the Council to preliminarily approve the Annual Report and set the date of June 17, 2003, for a public hearing. Upon conclusion of the public hearing on June 17, 2003, and subsequent City Council approval of the Annual Report, the assessment for the work will be added to the tax bills for those property owners included within the boundaries of the District.

RECOMMENDATION: Adopt resolution preliminarily approving the Annual Engineer's Report and providing for the notice of public hearing.

***17. ADOPT RESOLUTION GRANTING FINAL ACCEPTANCE: BELLEW DRIVE WIDENING (PROJECT NO. 4191) (STAFF CONTACT: STEVE ERICKSON, 586-3317)**

BACKGROUND: This project, which was initially accepted on April 16, 2002, has passed the one-year warranty period. A final inspection has been made and the widening improvements on Bellew Drive, which included recycled waterline improvements on Barber Lane and Barber Court are satisfactory. Therefore, a final acceptance may be granted and the contractor's bond may be released.

RECOMMENDATION: Adopt resolution granting final acceptance and release of the bond.

XIX. BIDS AND CONTRACTS

***18. APPROVE TWO AGREEMENTS WITH SANTA CLARA COUNTY REGARDING SOLID WASTE PROGRAMS (STAFF CONTACT: DARRYL WONG, 586-3345)**

BACKGROUND: This request is to approve two agreements with Santa Clara County related to the solid waste program. All county jurisdictions must approve these agreements before July 1, 2003, to continue County-wide and local programs.

The first agreement concerns the collection of landfill fees. The Integrated Waste Management Program for Santa Clara County has collected landfill tipping fees from waste haulers on behalf of all jurisdictions within the County since July 1992. Revenue from the fees is used to fund solid waste reduction activities. The county has recommended increasing the fee by \$0.55 per disposed ton to cover increased program costs. The proposed agreement would increase the fees and extend the agreement for collection of fees through June 30, 2006. Since this fee is paid by BFI, there is no direct impact on the current City's budget.

The second agreement concerns the collection of household hazardous waste. The Santa Clara County Department of Environmental Health has administered a Countywide Household Hazardous Waste Collection Program since October 1991. This proposed renewal for 2003-2006 will continue the agreement to provide collection of household hazardous wastes at various locations where Milpitas residents may participate.

RECOMMENDATION: Approve two agreements with Santa Clara County subject to approval as to form by the City Attorney.

***19. APPROVE AGREEMENT AMENDMENT: H. T. HARVEY AND ASSOCIATES; ENVIRONMENTAL SERVICES FOR CALAVERAS ROAD SLOPE REHABILITATION (PROJECT NO. 4029) (STAFF CONTACT: STEVE ERICKSON, 586-3317)**

BACKGROUND: On March 4, 2003, the City entered into an agreement with H. T Harvey & Associates for environmental consultation services to prepare Monitoring and Mitigation Program (MMP) as required by Regional Water Quality Control Board (RWQCB) permit for this project. Staff recommends that the agreement be amended to allow the consultant to perform a five-year monitoring and mitigation services of the project, which is also mandated by the RWQCB permit. The proposed fee is \$47,516.00 to perform the additional services. There are sufficient funds in the project budget.

RECOMMENDATION: Approve Amendment No. 1 to the Environmental Services Agreement with H. T Harvey & Associates and authorize the City Manager to execute the amendment, subject to approval by the City Attorney as to form.

***20. APPROVE AUTHORIZATION FOR CONTRACT: MAJOR LEAGUE SOCCER CAMPS, SUMMER YOUTH SOCCER CAMPS (STAFF CONTACT: AARON BUENO, 586-3226)**

BACKGROUND: Staff recommends authorization of City Council to approve a contract between the City of Milpitas and Major League Soccer (MLS) Camps. MLS Camps is the preferred vendor for providing youth soccer camps for 2003-2004. The MLS Camps will provide certified personnel, instruction, and supplies for the City's Summer 2003 soccer camps. Designed for girls and boys, ages 7-14 years old, the MLS Soccer Camps will be held July 7-11 and July 21-25, 2003.

Approval is requested to authorize a contract for the 2003-2004 year with Major League Soccer Camps, in an amount not-to-exceed \$10,000. Funds were approved by the City Council during the 2002-2003 budget hearing and are available from the Recreation Services Department operating budget for this purpose.

RECOMMENDATION:. Approve authorization to enter into a contract with Major League Soccer Camps, in the amount of \$10,000, subject to approval as to form by the City Attorney.

***21. APPROVE AUTHORIZATION FOR CONTRACT: SKYHAWKS SPORTS PROGRAMS, SUMMER YOUTH SPORTS CAMPS (STAFF CONTACT: AARON BUENO, 586-3226)**

BACKGROUND: Staff recommends authorization of City Council to approve a contract between the City of Milpitas and Skyhawks Sports Programs. Skyhawks Sports Programs is the preferred vendor for providing youth sports camps for 2003-2004. Skyhawks Sports Programs will provide certified personnel, instruction, and supplies for the City's Summer 2003 youth sports camps. The summer sports camps include basketball, flag football, and golf. Mini-Hawks, a pre-school age camp which serves as an introduction to sports, is also included.

Approval is requested to authorize a contract for the 2003-2004 year with Skyhawks Sports Programs, in an amount not-to-exceed \$20,000. Funds were approved by the City Council during the 2002-2003 budget hearing and are available from the Recreation Services Department operating budget for this purpose.

RECOMMENDATION:. Approve authorization to enter into a contract with Skyhawks Sports Programs, in the amount of \$20,000, subject to approval as to form by the City Attorney.

***22. APPROVE AUTHORIZATION FOR CONTRACT: SOUTH BAY MOA, ADULT SOFTBALL LEAGUE REFEREES (STAFF CONTACT: AARON BUENO, 586-3226)**

BACKGROUND: Staff recommends authorization of City Council to approve a contract between the City of Milpitas and South Bay MOA softball umpire association. South Bay MOA is the preferred vendor for providing softball umpires for the City's Adult Softball Leagues. South Bay MOA will provide certified umpires for the 2003-2004 Adult Softball Leagues. Approval is requested to authorize a contract for the 2003-2004 year with South Bay MOA, in an amount not-to-exceed \$25,000. Funds were approved by the City Council during the 2002-2003 budget hearing and are available from the Recreation Services Department operating budget for this purpose

RECOMMENDATION:. Approve authorization to enter into a contract with South Bay MOA, in the amount of \$25,000, subject to approval as to form by the City Attorney.

***23. APPROVE PLANS AND SPECIFICATIONS: PAVEMENT IMPROVEMENT PROGRAM (PROJECT NO. 4182) (STAFF CONTACT: STEVE ERICKSON, 583-3317)**

BACKGROUND: Plans and specifications for the subject project have been completed in accordance with the approved five-year Capitol Improvement Program (CIP). The improvements consist of roadway reconstruction on Ellis Avenue, Carl Avenue, Braly Avenue, Fanyon Street, Adams Avenue from Fanyon to Gadsden, and Gadsden Drive from Calaveras to Adams. The engineer's estimated construction cost for the work is \$740,000. A copy of the project plan title sheet is included in the Council's agenda packet. Complete plans and specifications are available for review in the office of the City Engineer.

RECOMMENDATION:

1. Approve plans and specifications.
2. Authorize advertising for construction bid proposals.

***24. APPROVE PLANS AND SPECIFICATIONS AND PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS: PIEDMONT ROAD BIKE PATH AND SIDEWALK IMPROVEMENTS AT ST. JOHN'S CEMETERY, PROJECT NO. 4214, CCS PLANNING AND ENGINEERING (CONTACT: STEVE ERICKSON 583-3317)**

BACKGROUND: Plans and specifications for the subject project have been completed in accordance with the approved five-year Capitol Improvement Program (CIP). The improvements consist of roadway widening and installation of concrete curb, gutter, and sidewalk along St. John's Cemetery. These improvements will provide better access and usage for bicyclists and pedestrians. The engineers estimated construction cost for the work is \$380,000. A copy of the project plan title sheet is included in the Council's agenda packet. Complete plans and specifications are available for review in the office of the City Engineer.

These improvements are within the Department of Water Resources (DWR) right of way. Staff is working with DWR to obtain the required encroachment permit. Advertisement for bid proposals will follow once permit has been received.

The widening project requires purchase of easement from the property owner, Richard A. Gaddy and Rosemary Gaddy. The total negotiated price for this 5,723 square foot easement is \$9,000.

RECOMMENDATION:.

1. Approve plans and specifications
2. Authorize advertising for construction bid proposals contingent on DWR permit.
3. Approve Purchase and Sale Agreement and Escrow Instructions with Mr. And Mrs. Gaddy.

***25. APPROVE PLANS AND SPECIFICATIONS: TRAFFIC SIGNAL INSTALLATION AT BARBER LANE AND BELLEW DRIVE: HIGGINS ASSOCIATES (PROJECT NO. 4212) (STAFF CONTACT: STEVE ERICKSON, 586- 3317)**

BACKGROUND: Plans and specifications for the subject project have been completed in accordance with the approved five-year Capitol Improvement Program (CIP). The project scope of work provides for the installation of a traffic signal at Barber Lane and Bellew Drive. It also provides for diagonal street parking on the east side of Barber Lane, north of the Barber/Bellew intersection. Higgins Associates, the design consultant, has completed the construction plans and specifications with an estimated construction cost of \$250,000. The title sheet of the plans is included in the Council packet. Complete plans and specifications are available for review in the office of the City Engineer.

RECOMMENDATION:

1. Approve plans and specifications.
2. Authorize advertising for construction bid proposals.

***26. AUTHORIZE CITY MANAGER TO EXECUTE CONTRACT: WILDLIFE CENTER OF SILICON VALLEY ANIMAL CONTROL SERVICES FOR THE CITY OF MILPITAS (STAFF CONTACT: FELIX RELIFORD, 586-3071)**

BACKGROUND: Since the establishment of the previous Cost Sharing Agreement in October 1993, the cities within Santa Clara County have received animal wildlife services free of charge from the Wildlife Center of Silicon Valley (WCSV). Wildlife animals were dropped off at the Humane Society and held until the Wildlife Center staff transports them to their center for care and treatment. The animals are then released back into the wild.

Because of the lack of funding, Wildlife Center of Silicon Valley, Board of Directors decided several years ago (effective September 1, 1999), to eliminate free services to those cities that have chosen not to pay for them. The Wildlife Center of Silicon Valley is requesting cities fund 49% of their projected budget (\$260,000). In the past, WCSV requested that cities pay 60% and they raised the balance of 40%. This year the percentage of funding request from cities has decreased. Each City is bearing their proportionate share of the cost of the rehabilitation services. Based on the number of animals the Wildlife Center has received from Milpitas in the past year, Milpitas cost in the coming year would be 2.4% of \$260,000 or \$6,336.

Included in the Council's agenda packet are the contract agreement and a letter from the Wildlife Center of Silicon Valley.

RECOMMENDATION: Authorize the City Manager to execute a contract agreement with Wildlife Center of Silicon Valley to provide wildlife services in the amount not-to-exceed \$6,336 subject to approval as to form by the City Attorney.

***27. AWARD CONSTRUCTION CONTRACT: CATHODIC PROTECTION SYSTEM REPAIRS (PROJECT NO. 7050) (STAFF CONTACT: STEVE ERICKSON, 586-3317)**

BACKGROUND: The work involves the installation and testing of new and existing cathodic protection systems on pipelines in various parts of the City. The project was advertised and sealed bids were opened on May 13, 2003. The engineer's estimated cost for the project is \$1,129,644. The bids ranged from \$937,360 to \$1,221,515. The low bidder, Corrpro Companies Inc., has requested to be relieved of their bid because of clerical errors made in their bid proposal. The City Attorney's office has reviewed Corrpro Companies, Inc.'s request and has determined that Corrpro's request meets the elements of Public Contracts Code requirement for relief from their bid. The next responsible, responsive low bidder is Ranger Pipelines with a bid of \$1,130,550.

Additional information is included in the staff memo included in the Council's agenda packet. There are sufficient funds in the project budget.

RECOMMENDATION: Award the contract to Ranger Pipelines, in the amount of \$1,130,550.

XX. CLAIMS AND DEMANDS

***28. APPROVE PAYMENT REQUESTS: MISCELLANEOUS VENDORS / CONTRACTORS
(STAFF CONTACT: LOU ZENZEN, 586-3161)**

BACKGROUND: In accordance with direction given by City Council at its August 15, 1995 meeting, Purchasing has prepared the following list of purchasing requests over \$5,000.00 for approval:

1. \$10,000.00 to Santa Clara County Sheriff's Department for increased cost of SLETS access fees due to costs of major technical enhancements passed through to countywide public safety agencies. (Funds are available from the Police Department operating budget for this service increase.)

RECOMMENDATION:. Approve the purchase requests.

XXI. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, JUNE 17, 2003, AT 7:30 P.M.**

NOTICE:

Beginning August 5, 2003, the public portion of the City Council meetings will begin at 7:00 p.m.